

CITY OF RIVERDALE MAYOR AND COUNCIL
BUSINESS SESSION ACTION MINUTES
OCTOBER 22, 2018 | 7:36 PM

CITY OF RIVERDALE MAYOR AND COUNCIL MEETING OCTOBER 22, 2018

*Mayor
& Council*

RIVERDALE



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Dr. Evelyn Wynn-Dixon

CITY COUNCIL
Cynthia Stamps-Jones, Ward 1
An'cel Davis, Ward 2
Wanda Wallace, Ward 3
Kenneth Ruffin, Ward 4

CITY MANAGER
E. Scott Wood

CITY ATTORNEY
L'Erin Barnes Wiggins

CITY CLERK
Sylvia Vaughan

RIVERDALE CITY HALL
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RIVERDALE, GA 30274
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WELCOME TO THE MAYOR & COUNCIL
MEETING OF THE CITY OF RIVERDALE
THIS MEETING IS OPEN TO THE PUBLIC

**CITY OF RIVERDALE MAYOR & COUNCIL
BUSINESS SESSION ACTION MINUTES
MONDAY, OCTOBER 22, 2018 | 7:36 PM**

The Honorable Mayor Evelyn Wynn-Dixon

The Honorable Cynthia Stamps-Jones
The Honorable Wanda Wallace

The Honorable An'cel Davis
The Honorable Kenneth Ruffin

City Manager:
City Clerk:
City Attorney:

E. Scott Wood
Sylvia Vaughan
L'Erin Barnes Wiggins

1. **CALL TO ORDER/WELCOME:** The Honorable Mayor Evelyn Wynn-Dixon.
2. **ROLL CALL- CITY CLERK:** All Members of Council were present, with the exception of Council Member Stamps-Jones, which constituted a quorum.

Attendee's Name	Title	Absent	Present
Evelyn Wynn-Dixon	Mayor, At-Large		X
Cynthia Stamps-Jones	Council Member, Ward 1	X	
An'cel Davis	Council Member, Ward 2		X
Wanda Wallace	Council Member, Ward 3 Mayor Pro-Tem		X
Kenneth Ruffin	Council Member, Ward 4 Parliamentary		X

3. **INVOCATION:** Provided by Dr. Dallas Wilson.
4. **PLEDGE OF ALLEGIANCE:** Recited in unison.
5. **RULES OF CONDUCT READ BY OFFICER IN ARMS:** Provided by Officer Barnes.
6. **ADOPTION OF THE AGENDA WITH ANY ADDITIONS/DELETIONS:**

Council Member Wallace made a motion to approve the agenda as presented with the following additions and deletions:

Addition(s):

- Presentation by Dr. Morcease J. Beasley, Superintendent of Clayton County Public Schools(CCPS)
- Approval of the Zoning Rewrite
- Reading of the Ethics Board Findings

Deletion(s): None

Council Member Ruffin provided the seconded. **The motion carried unanimously.**

7. **PRESENTATIONS:** Dr. Morcease J. Beasley, Superintendent of Clayton County Public Schools CCPS, spoke on Riverdale High School's graduation rate increasing to 85%. He indicated that Clayton County Public Schools graduation rate should be up to 90% percent within the next 5 years. Dr. Beasley also discussed future plans on implementing the Science, Technology, Engineering and Mathematics (S.T.E.M) Program within CCPS.

8. **PUBLIC COMMENTS: (3 MINUTE LIMIT) SEE BLUE CARD FOR RULES OF PARTICIPATION**

1. C. R. Callaway Jr., 925 N. Cumberland Cir, Riverdale, Georgia, 30274, expressed concerns about the rezoning for the potential apartment complex. Mr. Callaway emphasized that the prospective project could bring crime in the future. He asked the Counsel to vote "No" for the rezoning petition Z18-001.
2. Henrietta Callaway, 925 N. Cumberland Cir, Riverdale, Georgia, 30274, spoke about other possible projects that the Counsel could consider for that empty property. She stated that perhaps condos or affordable housing homes could be built there instead. Mrs. Callaway indicated that people take better care of property they own instead of renting.
3. Paula Oitalien, 916 N. Cumberland Cir, Riverdale, Georgia, 30274 voiced concerns regarding the potential apartment complex. Ms. Oitalien stated that building an apartment complex would definitely bring the property value down.

9. **ADOPTION OF THE MINUTES:** Meeting Minutes of October 8th , 2018 Work Session and Business Session

Council Member Wallace made a motion to approve the Minutes of October 8th, 2018 Work Session and Business Session with Council Member Ruffin providing the second. **The motion carried unanimously.**

10. **AGENDA ITEMS:**

➤ **OLD BUSINESS: (None)**

➤ **NEW BUSINESS:**

- 1) **Approval to reschedule the November 12th Mayor and Council Meeting to November 5th due to the Veterans Holiday/Resolution No. 40**

Council Member Wallace made a motion to reschedule the November 12th 2018 Mayor and Council Meeting to November 5th 2018 due to the Veterans Holiday/Resolution No. 40 with Council Member Ruffin providing the second. **The motion carried unanimously.**

2) **Approval to cancel the November 26, 2018 Mayor and Council Meeting due to the Thanksgiving Holiday/Resolution No. 41**

Council Member Wallace made a motion to cancel the November 26, 2018 Mayor and Council Meeting/Resolution No. 41 due to the Thanksgiving Holiday with Council Member Ruffin providing the second. **The motion carried unanimously.**

3) **Approval to cancel the December 24, 2018 Mayor and Council Meeting due the Christmas**

Council Member Wallace made a motion to cancel the December 24, 2018 Mayor and Council Meeting due the Christmas Holiday with Council Member Ruffin providing the second. **The motion carried unanimously.**

4) **Adoption of the Comprehensive Plan/Resolution No. 42**

Council Member Wallace made a motion to approve the adoption of the Comprehensive Plan/Resolution No. 42 with Council Member Ruffin providing the second. **The motion carried unanimously.**

5) **Approval of the Zoning Rewrite**

City Clerk, Sylvia Vaughan announced that a letter of withdrawal for the rezoning application (Z18-001) - multiple parcels off Evans Drive was addressed to Mayor Wynn-Dixon and City Manager E. Scott Wood. This letter was sent from Mr. Thompson Gooding, Vice President of Oracle Consulting Services. Mrs. Vaughan read the letter into the record.

6) **Reading of the Ethic Board Findings and Recommendations**

Ethics Board Chairman Mary LaSonde and other Members of the Board came before the Mayor and Council to present the findings and recommendations for of the Complaint filed by Council Member Ruffin against Council Member Stamps Jones. Ms. Lasonde read the Ethics Board findings and recommendations into the record. **Please review the attached document.**

11. ADJOURNMENT:

Council Member Wallace made a motion to adjourn the meeting at 7:54pm with Council Member Ruffin providing the second. **The motion carried.**

Mayor Evelyn Wynn-Dixon

City Clerk Sylvia Vaughan

STATE OF GEORGIA
CLAYTON COUNTY
CITY OF RIVERDALE

BEFORE THE CITY OF RIVERDALE ETHICS BOARD

***In re: August 10, 2018 Ethics Complaint against
Councilmember Cynthia Stamps-Jones***

I.
INTRODUCTION

This matter is before the City of Riverdale Ethics Board (the “Board”) on the Complaint of Councilmember Kenneth Ruffin (“Ruffin”) against Councilmember Cynthia Stamps-Jones (“Stamps-Jones”). The Board, having fully assembled for a hearing on October 4, 2018, and after hearing testimony and considering the evidence submitted, presents its Findings as follows:

II.
FACTUAL BACKGROUND

1. Councilmember Ruffin initiated these proceedings on August 10, 2018, by submitting a written, signed, and sworn Complaint to the City Clerk, together with supporting materials (the “Complaint”), in accordance with Section 3-22 of the City of Riverdale’s Code of Ordinances (the “Code”).

2. In the Complaint, Councilmember Ruffin described conduct by Councilmember Stamps-Jones that allegedly violates Section 3-12 and Section 6.1 (Charter) of the Code. *See* Exhibit A.¹

3. The Complaint was received by the Board within the timeframe prescribed by Section 3-22 of the Code and placed on the Board’s agenda for its next called meeting on August 29, 2018.

4. The Board convened on August 29, 2018 to evaluate the Complaint. At the August 29 meeting, Councilmember Stamps-Jones provided the Board with an Answer to the Complaint. *See* Exhibit B.² The Board began deliberations on the Complaint and related Answer but continued those deliberations until its next called meeting on September 17, 2018.

5. The Board convened on September 17, 2018, to continue deliberations on the Complaint. Having found no deficiencies in the filing and form of the Complaint, the Board scheduled a hearing for the Complaint on October 4, 2018. Both Councilmembers Ruffin and

¹ For purposes of public posting, this document has been redacted to remove personally identifiable information, such as email addresses.

² *See* Note 1, *supra*.

Stamps-Jones attended the September 17 meeting and were notified of the day, time, and procedure that would govern the hearing.

6. The Board convened on October 4, 2018, for the hearing on the Complaint. The Chair opened the hearing and outlined the procedure governing the hearing. Both Councilmembers Ruffin and Stamps-Jones were in attendance. Both parties were sworn in by a member of the Board, made opening statements, and answered questions posed by the Board. The Councilmember Stamps-Jones also questioned Councilmember Ruffin about the allegations contained in the Complaint. Neither Councilmembers Ruffin nor Stamps-Jones called witnesses to testify at the hearing.

7. Immediately following the conclusion of the hearing, the Board began its final deliberations. To ensure that the Board had a full opportunity to review and consider all of the evidence regarding the Complaint, as well as the attendance of at least three voting members, the Board continued its deliberations to October 18, 2018.³ *See* Riverdale, Georgia, Municipal Code, ch. 3, § 3-21(c)(5) (2017).

8. On October 18, 2018, the Board reconvened for its final deliberations regarding the Complaint. The Board unanimously voted to sustain the violations of Sections 3-12 and 6-1 against Councilmember Stamps-Jones and to impose penalties for those violations. Councilmember Stamps-Jones was present during these proceedings.

III. THE COMPLAINT

9. The Complaint alleges that, on November 22, 2017, Councilmember Stamps-Jones forwarded an email to City of Riverdale employees using a distribution list called “All Subscribers.” The Complaint alleges that the purpose of the email was to direct city employees to contact the FBI to investigate a local news story about the Riverdale city manager’s use of city property.

10. The email from Councilmember Stamps-Jones to “All Subscribers” contains a forwarded link to the news story and states, “This should be sent to the FBI not the GBI to investigate the federal crime of corruption.”

³ Section 3-23(f) of the Code states that, “[t]he findings of the board concerning a violation and the record of the proceedings shall be final and be made public by the board as soon as practicable after the determination has been made but no later than seven calendar days after completion of the final hearing.” Riverdale, Georgia, Municipal Code, ch. 3, § 3-23(f) (2017). Given that the final hearing on the Complaint took place on October 4, 2018, the Board’s findings were to be made public by October 11, 2018. This seven-day delay does not impact the Board’s ability to act upon this Complaint. *See* Section 3-23(g) (“Failure to comply with any of the time deadlines in this section shall not invalidate any otherwise valid complaint or in any way affect the power or jurisdiction of the board of ethics . . . to act upon any complaint.”).

11. In support of the Complaint, Councilmember Ruffin provided the following information:

- a. The underlying November 22, 2017 email from Councilmember Stamps-Jones to “All Subscribers”;
- b. A list of Riverdale employees included in the “All Subscribers” list; and
- c. Statements from three Riverdale employees regarding November 22, 2017 email.

12. The Complaint alleges that the conduct of Councilmember Stamps-Jones violates two ethics-related sections of the Code, namely, Section 3-12(b) (Unauthorized use of a city employee, city property, and interference with city operations) and Section 6.1 (Charter) (Council/mayor interference with administration).

IV. **THE BOARD’S FINDINGS**

13. The Board has jurisdiction to hear this matter because it is a complaint of alleged violations filed in the city against a city official. *See* Riverdale, Georgia, Municipal Code, ch. 3, § 3-18 (2017).

A. The Relevant Code Sections

14. Section 3-12(b) of the Code, entitled “Unauthorized use of a city employee, city property, and interference with city operations,” states:

Elected officials shall not interfere with or interject themselves into the day-to-day business operations of the city. Specifically, elected officials may not give direct instructions or orders to city employees, may not attempt to interfere with their job duties, may not seek to influence their performance appraisals and may not otherwise seek to take disciplinary action against them. Rather, *elected officials who seek to give direction to, use the services of, take direct action against or otherwise involve themselves with the activities of any city employee must direct their request to the city manager.*

Riverdale, Georgia, Municipal Code, ch. 3, § 3-12(b) (2017) (emphasis added).

15. Section 6.1 (Charter) of the Code, entitled “Council/mayor interference with administration,” states:

Except for the purposes of inquiries and investigation under the section 63⁴ of the Charter entitled “Inquiries and investigations of city affairs,” *the city council*

⁴ Section 63 (Charter) of the Code states that, “[f]ollowing the adoption of an authorizing resolution by a majority vote, the city council may make inquiries and investigations into the affairs of the city and the conduct of any department, office or agency thereof” Riverdale, Georgia, Municipal Code, pt. 1, § 63 (2017).

members and mayor shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the city manager, and neither the city council nor mayor shall give orders to any such officer or employee, either publicly or privately.

Riverdale, Georgia, Municipal Code, pt. 1, § 6.1 (2017) (emphasis added).

B. Analysis of Section 3-12

16. *The Board finds, by a preponderance of the evidence, that Councilmember Stamps-Jones has violated Section 3-12 of the Code.*

17. There is no dispute in this case that Councilmember Stamps-Jones sent an email to all Riverdale employees to share a news story regarding the city manager and his use of city property. Additionally, there is no evidence in the record showing that Councilmember Stamps-Jones contacted the city manager prior to sending the email in question.

18. Thus, there are two remaining questions for the Board to resolve. First, the Board must determine whether the email sent by Councilmember Stamps-Jones constitutes a “direction,” “order,” “instruction,” or “involvement with” city employees, thus running afoul of the Code’s prescriptions that such communications be sent to/through the city manager. Second, the Board must determine whether Councilmember Stamps-Jones’ conduct is justified by any applicable law.

Does the email sent by Councilmember Stamps-Jones constitute a “direction,” “order,” “instruction,” or “involvement with” city employees?

19. The text of the email from Councilmember Stamps-Jones says that the recipients “should” send the underlying information to “the FBI not the GBI.” The Board finds that Councilmember Stamps-Jones’ email, at a minimum, constitutes an effort by an elected official to become “involved” in the activities of city employees. Councilmember Stamps-Jones testified at the hearing that she intended to send the email to the “All Subscribers” list (which she testified to using on prior occasions) and admitted that she knew the email would go to city employees (although she was unsure who was included on the distribution list). She testified that her message was not intended to be a direction or order,⁵ but merely a “suggestion” to employees to report public corruption.

⁵ The evidence in the record suggests that Councilmember Stamps-Jones’ email could also have been interpreted as a direction or order. For example, one of the witness statements attached to the Complaint stated that the recipient viewed the message as a “demand.” Councilmember Stamps-Jones also testified at the hearing that her words could have been interpreted as an order, although that was not her intent. However, the Board does not make its findings on this ground because (1) another witness statement attached to the Complaint says that the recipient was unclear about the intent of the email and (2) the weight of the witness statements is diminished because the witnesses did not testify at the hearing.

20. The Board finds that, by making this suggestion to city employees, Councilmember Stamps-Jones became involved in the activities of city employees without first directing the request to the city manager, as required by the Code.

Is Councilmember Stamps-Jones' conduct excused by any applicable law?

21. In her Answer, Councilmember Stamps-Jones states that her conduct was protected by various whistleblower statutes and the First Amendment of the United States Constitution.

22. Councilmember Stamps-Jones first cites to the Whistleblower Protection Act of 1993 (SA). However, the statute cited by Councilmember Stamps-Jones appears to be an Australian statute and, therefore, does not apply to her conduct in the United States.

23. Councilmember Stamps-Jones also cites to the Georgia Whistleblower Act, O.C.G.A. § 45-1-4(d)(1). This Act states that “[n]o public employer shall make, adopt, or enforce any policy or practice preventing a public employee from disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or a government agency.” Even assuming that Councilmember Stamps-Jones fits within the statute’s definition of a public employee, her conduct is not protected because she did not adhere to the whistleblower statute’s reporting requirements. The statute is clear about who must be contacted when disclosing violations of the law – either a supervisor or a government agency.

24. Although not a “supervisor”⁶ in the strict sense, Councilmember Stamps-Jones testified that she reports to the citizens who elected her. She also advised that she relayed the news story to the City Council, but only after she sent the email to all Riverdale employees. If Councilmember Stamps-Jones had reported her concerns about the city manager to the public or to the City Council before contacting city employees, she may have accomplished the goals of the Whistleblower Act without violating the Code.

25. With respect to a “government agency,”⁷ the email in question did contain the names of Riverdale Police Department employees, but also contained the names of other non-law enforcement employees. Again, if Councilmember Stamps-Jones had taken this matter to a law enforcement agency, such as the Riverdale Police Department, the Board, GBI, or FBI, she may have been protected by the Act and not in violation of the Code. Instead, she indiscriminately sent her message to all city employees.

⁶ “Supervisor” is defined as any individual: (A) To whom a public employer has given authority to direct and control the work performance of the affected public employee; (B) To whom a public employer has given authority to take corrective action regarding a violation of or noncompliance with a law, rule, or regulation of which the public employee complains; or (C) Who has been designated by a public employer to receive complaints regarding a violation of or noncompliance with a law, rule, or regulation. O.C.G.A. § 45-4-1(a)(6).

⁷ “Government agency” means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations. O.C.G.A. § 45-4-1(a)(1).

26. Finally, Councilmember Stamps-Jones stated at the hearing that Section 3-12 violates her First Amendment right to freedom of speech. Even if her First Amendment rights were implicated, the ordinance would survive scrutiny. Assuming that Section 3-12 is a content-based speech restriction, it would be evaluated under the strict-scrutiny test where the city would have to show that it is (1) narrowly tailored to serve (2) a compelling state interest. *See, e.g., Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 222 (1989). Here, the city's ordinance is narrowly tailored in that it does not impose a wholesale prohibition or restriction on elected officials making contact with city employees. Instead, Section 3-12 carves out specific types of communications (e.g., directions, orders, etc.) and requires that elected officials request permission to make those communications, in the first instance, through the city manager. By way of example, Section 3-12 reduces the likelihood that elected or appointed officials will send personal requests to city employees (e.g., attempts to use a city-owned event space for a personal party) without anyone's knowledge. This procedure promotes the city's interests in: (1) ensuring the proper administration and operation of the city and (2) ensuring that its elected and appointed officials serve others (not themselves), use resources with efficiency and economy, and create an environment of honesty, openness and integrity. Riverdale, Georgia, Municipal Code, ch. 3, § 3-2 (2017).

C. Section 6.1 (Charter)

27. *The Board finds, by a preponderance of the evidence, that Councilmember Stamps-Jones has violated Section 6.1 (Charter).*

28. The language of Section 6.1 is similar to that of Section 3.12, as it requires that elected officials “deal with” city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. Thus, the analysis for Section 3-12, above, applies with equal force here and is incorporated herein.

29. In her Answer, Councilmember Stamps-Jones stated that her conduct is excused by the language of Section 6.1 because, at the time she sent her email, there was a pre-existing inquiry or investigation relating to the city manager. However, this analysis is incomplete. The scope of qualifying “inquiries and investigations” identified in Section 6.1 is described in Section 63 (Charter). Section 63 states that the inquiry or investigation must follow the adoption of an authorizing resolution by a majority vote of the city council. Riverdale, Georgia, Municipal Code, pt. 1, § 63 (2017). When asked at the hearing about whether there was a City Council investigation or inquiry prior to the email being sent, Councilmember Ruffin testified that there was no City Council resolution relating to an investigation, and Councilmember Stamps-Jones stated that she did not know if the City Council had launched an investigation. This testimony, when coupled with Councilwoman Stamps-Jones' testimony that she shared the corruption allegations with the City Council after sending the email in question, the Board finds that the section 63 carve out does not apply.

V.
PENALTIES

Having found that Councilmember Stamps-Jones violated Sections 3-12 and 6.1 (Charter) of the Code, in accordance with Section 3-24, the Board will impose the following penalties:

A. The Board will publicly read these findings at the next available meeting of the Riverdale City Council;

B. These findings will be made available to the public on the City of Riverdale's website; and

C. The Board requests that Councilmember Stamps-Jones immediately take a voluntary leave of absence without pay, or immediately resign, until all Ethics Board-related matters are resolved.

* * * *

By issuance of these Findings, the Board and each of its members have fully and faithfully discharged his/her duties and responsibilities under the Code with respect to the subject Complaint.

Dated this 22 day of October, 2018.

FOR THE ETHICS BOARD:

Mary LaSonde

Mary LaSonde
Chairperson

